

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 18-120 (ADM/KMM)

UNITED STATES OF AMERICA,

Plaintiff,

**MOTION TO DISMISS INDICTMENT
FOR UNREASONABLE AND
PURPOSEFUL
DELAY IN PROSECUTION**

vs.

DWIGHT FREDERICK BARNES,

Defendant.

The Defendant, Mr. Dwight Frederick Barnes, by and through his attorney, Andrew S. Garvis, respectfully moves the Court pursuant to Rule 7(c)(1), Federal Rules of Criminal Procedure 48(b), to dismiss the indictment because it is based impermissibly delay upon the prosecution that was unreasonable and vindictive. Mr. Barnes was arrested interrogated and threatened with Federal prosecution during the pendency of his State court prosecution. He spent seven months litigating issues in State court and was forcibly removed to Federal court to face same or similar charges in a different sovereign while the State court charges were neither resolved nor suspended violating due process. See, *United States v. Marion*, 404 U.S. 357 (1971); *United States v. Jackson*, 446 F.3d 847 (8th Cir. 2006); *United States v. Gamble*, 694 Fed.Appx. 750 (2017); *United States v. Scott*, 610 F.3d 1009 (8th Cir. 2010).

Dated: November 15, 2018

Respectfully submitted,

s/ Andrew S. Garvis

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